WP(C) 4450/2007
BEFORE
HON'BLE MR JUSTICE H.N.SARMA

27.8.2007

Heard Mr. D.C. Mahanta, learned senior counsel assisted by Ms. K. Devi, learned counsel for the petitioners and also Mr. Bora, learned Government Advocate appearing for the respondents.

Challenging the legality and validity of the impugned notices, asking the petitioners to vacate certain areas of land under their occupation alleging the same to be within the tribal belt/ reserved/road side land and being occupied without any permission of the authority, the present petition has been filed.

Mr. Mahanta, submits that the provisions under which the impugned notices have been stated to be issued under Section 165 of the Assam Land and Revenue Regulations read with Rule 18(1) 18(2) & 18 (3) of the Settlement Rules and as such it is contended that the authorities itself is not sure about the present status of the land. That apart the petitioners being in occupation of the land in question for the last 50 years they are atleast entitle to notices before taking such drastic action by the authorities in the purported exercise of power as referred to above.

Mr. Bora, Government Advocate submits that at any rate the land is a government land and the petitioners have not right to occupy the same.

Without going into the merits of the case as contended by the learned counsel for the parties, upon perusal of the materials available before me including the averments made in this writ petition, I am of the considered opinion, that issuance of the aforesaid notices ought to have been preceded with the show cause notices, but that was not done.

Accordingly, as agreed to by the learned counsel for the parties and in view of the nature of disputes as raised, this petition is disposed of at the motion stage itself with the direction that the petitioners, within a period of 3 weeks from today, shall file their respective replies in support of their defence highlighting their rights to occupy the land in question before the SDO (C), Margherita. On receipt of the same, the authorities shall take up the case of the petitioner for necessary disposal and in view of the nature of disputes it would be prudent for the authorities to allow the petitioners to give necessary hearing before passing any order against them.

It is provided that till disposal of the said application, no further action in terms of the impugned notices be taken by the authorities.

With the above direction this writ petition stands disposed of .